GOVERNMENT OF INDIA
LAW , JUSTICE AND COMPANY AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:7445
ANSWERED ON:15.05.2000
PUBLIC INTEREST LITIGATION
PALANIYAPPA GOUNDER KUMARASAMY

Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) Whether the Public Interest Litigations have served any useful purpose;

(b) if so, whether the Government are aware that facilities to file PILs are being misused; and

(c) if so, the steps taken/proposed to be taken by the Government to prevent such misuse?

Answer

MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RAM JETHMALANI)

(a) Since public interest litigation is usually entertained by court for purposes of redressing the grievances of the downtrodden masses, public injury, enforcing public duty, protecting social rights and vindicating public interest, it has to some extent served the purpose of helping the poor and underprivileged for getting justice.

(b) In order to prevent misuse of public interest litigation, the Supreme Court has recently laid down certain guidelines in Raunaq International Ltd. v.I.V.R. Construction Ltd (AIR 1999 SC 393) and Malik Brothers Vs. Narendra Dadhich & Others (1999 (5) SCAL 212) which are as follows:-

(1) The public interest litigation should not be merely a cloak for attaining private ends of a third party or of the party bringing the petition.

(2) The court should examine the previous record of public service rendered by the organisation bringing public interest litigation.

(3) Before entertaining a writ petition and passing any interim orders in such petition, the court must carefully weigh conflicting public interests. Only when it comes to a conclusion that there is overwhelming public interest in entertaining the petition, the court should intervene.

(4) Even when public interest litigation is entertained, the court must be careful to weigh conflicting public interests before intervening.

(5) The party on whose instance interim orders are obtained has to be made accountable for the consequences of the interim order. In appropriate cases, the petitioner asking for interim orders should be asked to provide security for any increase in costs as a result of delay or any damages suffered by the opposite party in consequence of any interim order. Stay orders or interim order if passed must be moulded to provide for restitution. If the public interest litigation fails, the public must be compensated for the delay in implementation of the project and the cost escalation resulting from such delay on account of the interim order.

(6) If the court finds that in the garb of public interest litigation, actually an individual`s interest is sought to be carried out or protected, it would be the bounden duty of the court not to entertain such petition.

(7) The court should restrict the flow of cases in the name of public interest litigation, otherwise traditional litigation will suffer and courts of law, instead of dispensing justice will have to take upon themselves administrative and executive functions.

(c) In view of the above guidelines prescribed by Supreme Court regarding public interest litigation, no measures are intended to be taken for prevention of misuse of public interest litigation at the moment. In fact, it is for the courts to ensure that frivolous litigation in the name of public interest litigation by persons having vested interests are not entertained.